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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,897	03/12/2004	George Bertram	034017R004	7423
441 7590 11/01/2007 SMITH, GAMBRELL & RUSSELL 1130 CONNECTICUT AVENUE, N.W., SUITE 1130 WASHINGTON, DC 20036			EXAMINER JACYNA, J CASIMER	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 11/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/798,897

Applicant(s)

BERTRAM, GEORGE

Examiner

J. Casimer Jacyna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) ☒ Responsive to communication(s) filed on 05 September 2007.

2a) ☐ This action is **FINAL**.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) ☒ Claim(s) 1-48 is/are pending in the application.

4a) Of the above claim(s) 1-17 and 46 is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 18-45, 47 and 48 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 31 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date See Continuation Sheet.

4) ☐ Interview Summary (PTO-413)

Paper No(s)/Mail Date. \_\_\_\_\_

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_\_

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date  
:083104;093004;100804;110304;012605.

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1. Applicant's election of group II in the reply filed on 9/5/2007 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 1-17 and 46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/5/2007.

3. The drawings are objected to because due to insufficient space on the form 948, the following was excluded: On box 6, the following figures have views not labeled separately or properly: Figures 9, 11, 15, 28-29, 34, 55, 72, 73, 77, 93, 105, 109-110, 113, 134, 146-152, 155-173 and 186. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are

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not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Claims 31-35 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 29 is drawn to a feed system. Claim 31 is drawn to a combination supply system that claims an additional set of elements but does not further limit any of the subject matter called for claim 29.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 31-35, 45 and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to claim 31, claim 29 is drawn to a chemical feed system. The last two lines of claim 31 state that the pump assemblies comprise the chemical supply system of claim 29. Therefore, it appears that only a portion of claim 29 is being claimed. A dependent claim cannot include only a portion of a parent claim. Plus it is not certain as to what portion of claim 29 is to be included in claim 31. Also, there is no antecedent basis for "the chemical supply system" in parent claim 29. In regard to claims 45 and 48, originally presented claims may only depend from a previous claims and cannot depend from a subsequent claim.

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In regard to claim 45, there is no antecedent basis for "said coupling housing" in parent claim 46. In regard to claim 48, claim 48 is incomplete because it depends from a non-existent claim.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 18-20, 22-25, 28-32, 34-36 and 40-45 are rejected under 35

U.S.C. 102(b) as being anticipated by Jeans (4,804,112). Jeans discloses a chemical

feed system for a carbonated beverage chemical that typically foams or produces a froth when dispensed as claimed. The dispenser of Jeans is also capable of dispensing a foam chemical as claimed. The Jeans dispenser includes a motor and drive shaft

172, a pump unit surrounding 184, and a drive transmission system that includes a first magnetic coupling member 176, a second magnetic coupling member 178 and a shroud as is the upper closure of 160 that has the exit aperture for 200, the CO2 aperture at the upper 198 and an outwardly extending flange that encircles 178 and fastens 180 as

shown in figure 12. In regard to claim 31, Jeans discloses the use of a dual dispensing system on column 6, line 61, to column 7, line 8. In regard to claims 25 and 42, Jeans discloses a set of bearings 136 and a backflow stopper 144. In regard to claim 34, inasmuch as the lines 194 or hoses of Jeans extend between the pump assemblies 184 and the dispenser systems 196, 198 as claimed, they are heater hoses as claimed.

Claim 34 does not define a heater or an element that creates heat nor any heating

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structure, but merely states that a hose extending from a pump to a dispenser is a heater hose.

9. Claims 18, 19, 21, 27-30, 36 and 40-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Siller (4,321,938). Siller discloses a chemical feed system that is capable of dispensing a foam chemical as claimed. The Siller dispenser includes a motor 24, a drive shaft 26, a pump unit 12, and a drive transmission system that includes a first magnetic coupling member 30, a second magnetic coupling member 32 and a shroud as is the housing 6 that includes a portion 33 between the magnetic coupling members and a chemical reception cavity as is the bottom of 10 which is secured to 6 and includes a portion surrounding pump 12. In regard to claim 27, Siller discloses a flexible coupling section 54 that connects 12 to 34. In regard to claim 36, Siller discloses an inlet conduit 14, an input valve 50 and a chemical supply line 48 that surrounds an input valve 50.

10. Claims 18-20, 22-24, 28-32, 43-45, 47 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Newman (5,209,069). Newman discloses a chemical feed system for a refrigerated, recirculated beverage chemical that is usually a juice as is well known in the art and typically foams or produces a froth when recirculated or dispensed as claimed. The dispenser of Newman is also capable of dispensing and recirculating a foam chemical for an aesthetic display as claimed. The Newman dispenser includes a motor 44, a drive shaft 43a, a pump unit 28, 35-37, 39, and a drive transmission system that includes a first magnetic coupling member 40, a second magnetic coupling member 38 and a shroud 14 that encloses a sump for fluid

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within 36, 37. In regard to claim 20, the pump dispenses liquid through 86 to the distal end of 16 which will cause the liquid to bubble or foam as claimed. Also, since the pump is dispensing through 86, as claimed, the flow through 86 can be defined as the downstream and hence the downward direction with the sump of 14 forming the upper region of the shroud that is received by the shroud reception cavity formed by 46 with 85. The claims do not define any specific reference point for the up direction. In regard to claim 31, Newman discloses the use of a dual dispensing system in figure 4. In regard to claims 24 and 47, Newman discloses a bearing 29 and a thermostatic switch 99 that determines how well the motor is functioning, or encodes the motor function as claimed, in recirculating the liquid and maintaining the liquid at a desired temperature.

11. Claims 36 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Soudan (2003/0121938). Soudan discloses a foam chemical feed system including a pump 8, an inlet conduit 12, and an input valve 15 attached to a chemical supply line as is the conduit from the inlet of valve 15 to tank A or B. In regard to claim 37, Soudan discloses a chemical feed line 7 with a heater extending therealong as disclosed on paragraph 30.

12. Claims 36 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Ayers et al. (3,017,164). Ayers discloses a foam chemical feed system including a pump 156, an inlet conduit 154, and an input valve 280 or 282 attached to a chemical supply line 266.

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:



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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jeans (4,804,112) in view of Vanderjagt (4,804,109). Jeans discloses a chemical feed system including a raised upper section on the first magnetic member 176 that surrounds and generically fastens to the drive shaft of motor 172 as shown in figure 12 substantially as claimed but does not disclose a threaded connection. However, Vanderjagt teaches another chemical feed system having a transmission shaft connection that is threaded at 85, 87 for the purpose of providing a secure and well known means to fasten a shaft to flange. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Jeans with a threaded connection when practicing the Jeans system as, for example, taught by Vanderjagt in order to provide a secure and well known means to fasten a shaft to flange in lieu of the generic connection disclosed in Jeans.

15. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jeans (4,804,112) in view of Buse (4,871,301). Jeans discloses a chemical feed system including a pair of bearings 136 on the pump transmission shaft substantially as claimed but does not disclose radially smaller shaft section for the bearings. However, Buse teaches another pump transmission shaft 19 having a set of bearings 20, 21 on radially smaller sections with a radially enlarged section shown between the bearings 20, 21 in figure 1 apparently for the purpose of maintaining the bearing spacing. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

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made to provide the system of Jeans with radially smaller sections for the bearings as, for example, taught by Buse in order to maintain bearing spacing.

16. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jeans (4,804,112) in view of Williamson et al. (6,010,043). Jeans discloses a chemical feed system and beverage dispenser substantially as claimed but does not disclose rollers. However, Williamson teaches another beverage having rollers 14a for the purpose of making the dispenser portable. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Jeans with rollers as, for example, taught by Williamson in order to make the dispenser portable.

17. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Newman (5,209,069) in view of Williamson et al. (6,010,043). Newman discloses a chemical feed system and beverage dispenser substantially as claimed but does not disclose rollers. However, Williamson teaches another beverage having rollers 14a for the purpose of making the dispenser portable. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Newman with rollers as, for example, taught by Williamson in order to make the dispenser portable.

18. Claims 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayers et al. (3,017,164) in view of Soudan (2003/0121938). Ayers discloses a foam dispenser including a chemical supply line 266 that will generally be greater than 40 feet in length in order to extend to the nearest water hydrant or outlet and a chemical feed

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line 190 that need only extend to a point of use and does not need to extend greater than 40 feet substantially as claimed but does not disclose a heater extending along the chemical feed line. However, Soudan teaches another foam dispenser having a heater extending along the chemical feed line as disclosed in paragraph 30 for the purpose of ensuring that the foam is dispensed at the proper temperature. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the dispenser of Ayers with feed line heater as, for example, taught by Soudan in order to ensure that the foam is dispensed at the proper temperature.

19. Claims 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman (5,209,069) in view of Claassen (4,898,527). Newman discloses a chemical feed system including a thermal control 99 for the motor with a magnetic coupling substantially as claimed but does not disclose a motor speed encoder. However, Claassen teaches another chemical feed system including a thermal control 96 for the motor with a magnetic coupling and having a motor speed encoder 99 in addition to the thermal control for the purpose of having a safety system to ensure the proper temperature of the fluid being dispensed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Newman with a motor speed encoder as, for example, taught by Claassen in order to ensure the proper temperature of the fluid being dispensed.

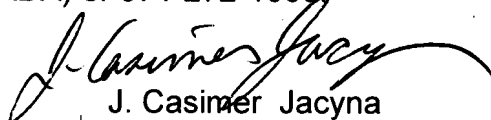
Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-

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4889. The examiner can normally be reached on Wed. thru Fri. 9AM-7PM, Mon. 7AM-1PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



J. Casimer Jacyna  
Primary Examiner  
Art Unit 3754

CJ